



## **NATIONAL PUBLIC-PRIVATE PARTNERSHIPS GUIDELINES**

### **Annex E – Transaction Advisor Terms of Reference**

PPP Unit of the Ministry of Finance, Planning and Economic Development

# 1. Introduction

## 1.1 Background

- 1.1.1. In 2010, the Government of Uganda adopted a PPP policy. The policy creates a framework for the involvement of the private sector in provision of public infrastructure and services.
- 1.1.2. The *Public Private Partnerships Act* came into force on 1 October 2015. The *PPP Act* establishes the legal and institutional framework for the concrete implementation of PPP projects. The *PPP Act* provides for the establishment of the Public Private Partnerships Committee, the Public Private Partnerships Unit and the Project Development Facilitation Fund. The *PPP Act* also sets out the procedure for the implementation of PPP projects across all steps of the project cycle from inception to the end date of the PPP agreement. Furthermore, the *PPP Act* defines the contents of the PPP agreement.
- 1.1.3. Pursuant to the *PPP Act*, the Minister responsible for finance issued the *Public Private Partnerships Regulations, 2019* and the *Public Private Partnerships (Meetings of the Committee) Regulations, 2019* (together, *the PPP Regulations 2019*). The *PPP Regulations* prescribe the bidding methods and procedures for the selection of a Private Party.
- 1.1.4. The *Guidelines* presented in this document are firmly grounded in the policy and legal framework that has been put in place by the Government for the implementation of PPP projects.

## 1.2 This document

- 1.2.1. The National Public-Private Partnership Guidelines consist of a Main Document and a set of Annexes.
- 1.2.2. This document is Annex E and contains a template of the technical terms of reference for the procurement of a Transaction Advisor.
- 1.2.3. In addition, guidance is provided on the remuneration of the Transaction Advisor.

## 1.3 Use of this document

- 1.3.1. These terms of reference apply to a generic PPP project. When used in practice, they must be tailored and detailed in function of the specific requirements of the project for which a Transaction Advisor is procured.

## 2. Transaction Advisor Terms of Reference

### 1. Introduction

- Project background and objectives
- Project status

### 2. Objectives

The Transaction Advisor will support the Contracting Authority with:

- Project feasibility study;
- Commercial and financial structuring of the project – including government support arrangements - to establish a bankable business case;
- Preparation of an effective and equitable tender process and documentation according to international standards;
- Support the Contracting Authority in obtaining requisite project approvals;
- Support the Contracting Authority in managing the bidding and transaction process up to both commercial close and financial close.

The Transaction Advisor is expected to work closely with the Contracting Authority and the Project Team during the assignment. The Transaction Advisor will ensure capacity building of the Contracting Authority staff and knowledge transfer with respect to the entire transaction preparation and implementation.

### 3. Scope of work

Broadly, the services of the Transaction Advisor will comprise of technical (including social and environmental aspects), financial, legal and procurement services including management of the bidding process. The services will cover the different stages of transaction preparation and implementation including: the project due diligence, carrying out detailed project financial modelling to support the commercial and financial structuring (develop project term sheet), managing the PPP bidding process, including bid document preparation, assisting in contract award and providing advisory services until the financial close of the project.

The scope of the services is described below [*must be tailored to specific requirements of project*].

#### PHASE I: Feasibility Study

The Feasibility Study comprises the following components:

- (1) Demand study
  - a. Determination of project rationale
  - b. Demand forecasts
- (2) Technical study
  - a. Definition and exploratory analysis of alternative technical project options
  - b. Preliminary/conceptual design and technical feasibility assessment
  - c. Project site assessment
  - d. Estimate of project costsDrafting of output specifications for preferred technical option

- (3) Environmental impact assessment
  - a. Environmental Impact Assessment
  - b. Preparation of Environmental management and monitoring plan
- (4) Social impact assessment
  - a. Preparation of Land Acquisition and Resettlement Plan (LARP)
  - b. Other social impact assessment reports or management plans
- (5) Legal analysis
  - a. Legal due diligence
  - b. Preparation of action plan to secure the legal and regulatory permits and approvals
- (6) Economic assessment
  - a. Social-Cost-Benefit Analysis
- (7) Financial analysis
  - a. Development of project finance model of the project
  - b. Detailed financial analysis
- (8) PPP/Value-for-money assessment
  - a. Definition and exploratory analysis of alternative technical PPP options
  - b. Value-for-money assessment
  - c. Determination of the key commercial terms of PPP agreement
- (9) Fiscal affordability assessment
  - a. *See detailed description of scope of works below*
- (10) Risk analysis
  - a. Identification and analysis of project risks
  - b. Establishment of risk matrix
- (11) Market sounding
- (12) Procurement and Implementation Plan
  - a. Establishment of overall action plan with Indicative time schedule for procurement and implementation of the project
  - b. Outline of procurement strategy
  - c. Communication plan

### **Assessment of fiscal impact of the project**

The Transaction Advisor will identify and assess the fiscal commitments, fiscal risks and contingent liabilities for the recommended PPP structure of the project. The assessment will cover the (1) analysis of the project's risk using a Fiscal Risk Register and Summary Risk Profile, (2) identification of fiscal commitments using a Fiscal Commitments Register (3) assessment of fiscal commitments and fiscal risks and (4) assessment of their affordability. The consultant will follow the process prescribed in the Guidelines for the Management of Contingent Liabilities Framework of the Ministry of Finance, Planning and Economic Development, Government of Uganda, attached vide Annex J1 of the PPP Guidelines. The outputs of this section of the feasibility study will be used as an input to the review team in the MFPED tasked with assessing the fiscal affordability of the project.

- The Transaction Advisor will prepare a Fiscal Risk Register. The Fiscal Risk Register is fiscal risk matrix focused on the effects and mitigation measures over the government partner. It shall contain only risks that are allocated partially or totally to the government. The Fiscal Risk Register will include description of the risk, allocation, cost, likelihood and fiscal impact, and government mitigation actions. This assessment will need to include a Summary Risk Profile to allow the MFPED to compare different risks in terms of impact and probability.

- The Transaction Advisor will prepare a Fiscal Commitments Register. The fiscal commitments will be identified under the headings “direct fiscal commitments” and “contingent liabilities.” The fiscal commitments will be described in enough detail covering concept, periodicity, form of calculation, factors influencing its adjustments and trigger events etc. The assessment will also cross reference these fiscal commitments with sections in the feasibility study, project term sheet, PPP contract, letters of support, guarantees etc.
- Assess and compute the values for fiscal commitments and fiscal risks.
  - For direct liabilities, compute the annual cost over the life of the project, present value of the payments over the period of agreement, annual payments over the five-year budget and present value thereafter. In cases where adjustments to direct liabilities are linked to macroeconomic parameters and/ or contingent events, assess values using scenario analysis, stochastic analysis, qualitative analysis of likelihood of reaching trigger values etc.
  - For contingent liabilities, estimate the annual cost over the life of the project and present values using scenario analysis, stochastic analysis, qualitative analysis of likelihood of reaching trigger values etc.
  - For termination events and other risks, compute the maximum value of the estimated pay-out along with qualitative analysis of likelihood of reaching trigger values.
- Assess the affordability of the fiscal commitments and fiscal risks
  - Provide inputs to the affordability assessment by comparing these fiscal commitments and fiscal risks to the budget of the Contracting Authority, revenue estimates, GDP of Uganda, debt sustainability etc.

The Transaction Advisor must consult with the applicable departments in MFPED (including Debt, DB and DEA) in carrying out the fiscal risk assessment. The Transaction Advisor will provide analytical support to the review team in the MFPED for assessment of fiscal affordability of the project.

## **PHASE II: Preparation of transaction documents and procurement process**

- Pre-marketing
- Identifying potential investors
- Preparation for procurement process, including development of project website and project data room
- Preparation of pre-qualification documents including Project Information Memorandum and recommendation of financial and technical pre-qualification criteria
- Assistance in pre-qualification process
- Assistance in evaluation of qualification documents submitted by the prospective bidders
- Preparation of prequalification evaluation report
- Preparation of Bidding documents including the financial and technical evaluation criteria (RFB, draft PPP Agreement and its schedules)
- Assistance in bidding process (pre-bid meetings, clarifications, competitive dialogue (if applicable) etc.)
- Assistance in bid evaluation
  - Technical bid evaluation report
  - Financial bid evaluation report
- Assistance in negotiations with bidders/preferred bidder

- Preparation of final PPP agreement for signing
- Advice on satisfaction of conditions precedent
- Assistance to the Process Auditor
- Support in preparing documents for disclosure
- Preparation of terms of reference for Independent Expert
- Recommendations on contract management and preparation of draft Contract Management Plan

### **PHASE III: Assistance until Financial Close**

The Transaction Advisor will provide all the required assistance until the financial close of the Project (for a maximum period of [180] days from signing of the PPP agreement).

#### **Early termination of Transaction Advisory services in case the Project is stopped**

If the Contracting Authority decides not to move forward with the Project, then the Transaction Advisory services contract will be terminated, and the Transaction Advisor is remunerated for the work delivered up to the date of termination.

In particular the Contracting Authority may decide not to move forward with the procurement of the project (phases II and III) if it concludes from the findings of the Feasibility Study that the project is not viable.

## **4. Reporting requirements**

The key deliverables are:

1. Project Feasibility Study Report
  - a. Inception Report
  - b. Feasibility Study Report
  - c. Appropriate project finance model with suitable assumptions
2. Pre-Qualification Documents:
  - a. Request for Prequalification
  - b. Project Information Memorandum
3. Prequalification Evaluation Report
4. Bid documents:
  - a. Request for Bids
  - b. Draft of PPP Agreement
  - c. Output specifications
  - d. Terms of Government Support
5. Bid evaluation report
  - a. Technical Bid Evaluation Report
  - b. Financial Bid Evaluation Report
6. Final PPP Agreement (for signing) incorporating terms and conditions of Government Support
7. Contract Management Plan
8. Terms of Reference of Independent Expert
9. Close out Report

In addition, the Transaction Advisor will prepare for submission to the Accounting Officer of the Contracting Authority:

- Monthly progress reports
- Minutes of meetings
- Various notes and memos as may be required by to support the contracting authority in the preparation and procurement of the project (such as replies to questions of bidders, negotiation notes, inputs for disclosure documents, ...)

*[Timetable for delivery of each deliverable to be included.]*

## 5. Terms of Payment<sup>1</sup>

The Transaction Advisor will be paid on a lump sum basis. The total fees will be paid based on various milestones achieved. The Contracting Authority will accord this approval after ensuring that the outputs delivered by the Transaction Advisor conform to the regulatory requirements.

The indicative milestones for payment are shown below.

1. Approval of Inception Report;
2. Submission of Draft Feasibility Study Report
3. Approval of Feasibility Study Report
4. Approval of RFQ documents
5. Completion of prequalification evaluation and determination of prequalified bidders
6. Approval of the bidding documents
7. Completion of bid evaluation and determination of preferred bidder;
8. Completion of BAFO evaluation determination of preferred bidder (if applicable)
9. Signing of PPP agreement with the Successful Bidder; and
10. Financial close of the project.

*[Contracting Authority to insert provision for payment of agreed TA expenses on a project by project basis].*

## 6. Transaction Advisor requirements

### General Requirements

A prospective Transaction Advisor should have required experience providing PPP legal advice, project finance (financial modelling, analysis, structuring, risk assessment, and other relevant tasks) advice and sector specific technical advice. Generally, the international experts should have 10 years and national experts should have 5 years of demonstrated project-relevant experience in the preparation and transaction of at least 3 PPP projects, with additional merit given to experience with PPP projects in Sub-Saharan Africa. Likewise, the international sector experts should have 10 years and national sector experts should have 5 years of demonstrated experience in the preparation, development (design & construction), and/or operations and maintenance of 3 projects in the *[name of sector]*.

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<sup>1</sup> Further details on Transaction Advisor payment structures are covered in Chapter 3.

## **Qualifications of Key Personnel**

The team of transaction support Transaction Advisors will include qualified personnel including experts from specific sectors, public-private partnerships, project preparation and appraisal, project implementation, financial modelling/structuring, investment promotion, economic and financial analysis, risk analysis, procurement, policy and legal issues. The Team will be composed of Transaction Advisors, who will have extensive technical and country-specific experience that would include extensive knowledge of the sector, regulatory issues involved and government instruments to enhance the development of bankable PPPs.

The team composition and indicative scope of work and deliverables from each specialist area are as indicated below:

### ***Team Leader***

The Team Leader will generally be responsible for coordinating all inputs of the team; submission of all reports; facilitation of meetings and stakeholder consultations, as required; and liaison with the Contracting Authority, as required. Specific tasks would include, among others, the following:

- liaise with Contracting Authority and keep all stakeholders apprised of any issues or concerns that could impact project performance and or completion of the consulting assignment;
- be responsible for drafting inception report, progress reports, and updating the agreed work program, and provision of timely information to Contracting Authority on contract administration issues;
- manage the team of experts to ensure integrated monitoring of the agreed work program;
- coordinate the inputs of team members as per the agreed work plan, advise team members of changes to the work plan, and monitor team members' other project commitments to ensure appropriate priority attention is given to the assigned task;
- ensure outputs of team members are in accordance with the contractual Terms of Reference and the client's quality expectations;
- ensure smooth implementation of the internal quality assurance mechanism and be ultimately responsible for output quality by reviewing, commenting upon and approving all such outputs;
- ensure all contracted deliverables are prepared in a timely manner and manage project scheduling; and
- brief and supervise team members on (a) quality management, and (b) integrity and professional conduct; and keep the team updated on changes in the operating environment or procedures.

### ***Project Finance Expert***

The Transaction Advisor will have proven work experience in financial modelling and project structuring of PPP projects. It will develop a financial model, incorporating an appropriate structuring of the selected PPP modality with detailed capex, opex and revenue (payment mechanism and tariff scheme) assumptions and manage the financial aspects of the transaction preparation and bidding process according to the provisions of the relevant PPP and government support regulations. In doing so, the Transaction Advisor will, among others, carry out the following tasks:

- develop an appropriate project finance model with suitable assumptions, resulting in a set of projected financial statements (balance sheet, cash flow, income statement, key ratio analysis) and sensitivity scenarios;
- develop the financial / commercial and risk allocation terms of the envisaged PPP modality after assessment of alternative choices including the commercial, legal, and institutional impacts;



- ascertain the potential acceptability of the recommended PPP structure by the investors and potential lenders;
- recommend a suitable bankable financing plan, including appropriate debt equity ratios, loan tenures, rates and cash flow requirements for project viability and bankability, and required government support;
- identify appropriate funding sources, including private sector funding, government funding and government support. Identify their likely terms and conditions, incorporating them in the project financial model;
- develop all required due diligence documents for potential lenders;
- test all key assumptions against financial model outputs, including the financial internal rate of return and debt service coverage ratio, identifying any required policy revisions for project sustainability, including on the revenue model;
- provide project risk analysis with suitable mitigation strategies;
- assess contingent liabilities arising from the project;
- assess project financial management capacity;
- produce and manage all project and bidding process documentation and post-bid monitoring frameworks in coordination with the legal specialist;
- manage the bidding process, including marketing, pre-bid meetings, identification of potential bidders, bidder query responses, bidder qualification and evaluation criteria development; and
- provide all required support until the financial close of the project;
- provide inputs related to taxes, tax exemptions and tax incentives, financial accounting systems.

### ***Legal Expert***

The Transaction Advisor will develop a legal / regulatory and institutional analysis to determine the requirements of the selected PPP modality, and assist in the bidding process, project documentation, and evaluation procedures. Specifically, this analysis will include, but not limited to:

- conducting a policy and institutional assessment to ascertain the validity and viability of the proposed PPP structure for the project;
- assessment of the Contracting Authority's capacity to manage the project once operational, and recommend required changes and capacity improvement measures as appropriate;
- recommend institutional measures to improve the governance of the Contracting Authority's with the purpose of ensuring efficient management of project assets after PPP project completion;
- develop "bankability" measures for the proposed PPP project structure, such as payment and guarantee mechanisms, preconditions for a private operator to fulfil in meeting service obligations, default and risk clauses, and step-in rights;
- in accordance with relevant sector and PPP legislation and associated regulation, assist in the bidding process management through documentation preparation, including Request for Prequalification, request for proposal, contractual agreements between project sponsor and winning bidder, as well as in developing bidder instructions, bid qualification parameters and bid evaluation criteria, bidding process schedules, and undertake stakeholder consultations;
- providing advice on country-specific legal experience of PPP projects in the sector, judiciary-related, legal and regulatory issues pertaining to the project, legal perspective on special privileges and incentives available for PPP projects and other country-specific legal knowledge;
- provide all required support until the financial close of the project.

### ***Social Impact Expert***

The Transaction Advisor will ensure adequate management of project social impacts consistent with the country's social/gender and safeguard policies. To fulfil this, the Transaction Advisor will, among others, do the following:

- assess the Contracting Authority's capacity and commitment to undertake social impact due diligence, impact monitoring, and mitigation measures implementation (e.g., Land Acquisition and Resettlement Action Plan (LARP) implementation);
- ensure proper implementation of LARP and overall project compliance with the relevant social safeguard and regulatory framework.

### ***Environmental Expert***

The Environmental Expert will support the Contracting Authority with properly implementing the Environmental Management Plan in accordance with the Directorate of Environmental Affairs. The support will consist of:

- evaluate the Contracting Authority's capacities to implement mitigation measures, and where necessary recommend capacity improvement training programs and measures; and
- seek government environmental clearance, required permits, and approvals;
- include environmental management plan in the bidding documents, along with the requirement to comply with mitigation measures therein.

### ***Sector Expert***

The Transaction Advisor will need to complete the sector-specific technical validation of project design and cost estimates through, but not limited to, implementation of the following tasks:

- update the technical analysis in the feasibility study to confirm the technical validity/viability of the project, including verifying assumptions such as [*current and projected demand levels for project outputs, design criteria and standards, capacity, prevailing topographical and other conditions, ...*];
- produce the technical parts of the RFP / produce the projects output specifications;
- verify quantities and rates for major civil works, equipment, construction and supervision consulting, and other input items;
- verify and develop projected operation and maintenance costs for the project on a whole of life basis;
- review and quantify costs and benefits from the project, and confirm the project design on a least-cost basis in financial and economic terms;
- assist in the project financing modelling, providing project costs (capital expenditures, operations, maintenance), required contingency levels, and any other information as requested;
- provide all required support until the financial close of the project.

### ***Communication Expert***

The Communication Expert will support the Contracting Authority with the development and implementation of a communications and public relations strategy aimed at the various stakeholders of the project. To achieve this the Communication Expert, will carry out, among others, the following tasks:

- conduct a public communication needs analysis for the project;

- propose communication strategies across multiple stakeholders to address the identified communications needs;
- design means to seek feedback from stakeholders on critical aspects of the project and to find mutually acceptable solutions for potentially conflict issues;
- develop a comprehensive communication plan for the implementation phase of the project (key messages on issues anticipated to arise such as economic and financial aspects, the environment, gender and social safeguards, among others; communication activities and tools; communication implementation plan; processes for engaging stakeholders; required resources and costs of implementing the communication plan).

## 3. Remuneration of the Transaction Advisor

### 3.1 Types of fees

3.1.1. In general the remuneration of the Transaction Advisor should be tailored as much as possible to the cost drivers. This rule prescribes the following remuneration structure:

- (a) a **lump sum fee** for the parts of the scope of work for which the outputs are more or less fixed and known in advance (i.e. preparation of feasibility study report and bidding documents);
- (b) **time-based fee** for the parts of the scope of work for which the outputs are variable and not known in advance (i.e. assistance during the procurement process, which depends on many factors that are not known in advance: number of bidders, number of questions asked, number of dialogue rounds that is needed to obtain an acceptable solution, need for a BAFO, etc.).

3.1.2. In many transaction advisory contracts the remuneration is indeed structured in this way:

- (a) a lump sum fee for the preparatory phase of the PPP procurement (feasibility study and preparation of bidding documents);
- (b) time-based fees for the procurement process itself (assistance to the Contracting Authority from the issuing of the RFQ to financial close).

3.1.3. For purpose of the evaluation of the bids the price of time-based items is multiplied by a provisional estimate of the number of person days that will be required for the assistance during the procurement process. The table below shows an example of the bid price form for a mixed lump sum/time-based transaction advisory services assignment.

Item	Type	Unit	Unit price	Estimated quantity	Price
Feasibility Study	Lump Sum				
Drafting of bidding documents	Lump Sum				
Assistance during procurement					
Team Leader	Time-Based	Person-month		15	
Financial expert	Time-Based	Person-month		10	
...	Time-Based	Person-month			
<b>Total Bid Price</b>					

3.1.4. Time-based contracts are in general more difficult to manage by the Contracting Authority. The time inputs of the Transaction Advisor must be closely monitored and managed. Many Contracting Authorities wish to avoid this task, and therefore choose to remunerate the Transaction Advisor entirely on a lump sum basis.

3.1.5. In that case the Transaction Advisor must make an estimate of the required efforts to determine his bid price, and bears the risk that the estimate on which his bid price is based deviates from actual efforts. The practice shows that in most cases firms providing transaction advisory services are prepared to take on this risk and are willing to submit bids for lump sum contracts. However, if the Transaction Advisor finds out during the performance of the services that the required efforts are

much higher than he expected when preparing his bid, he may request a price adjustment, arguing that the actual circumstances of the project are very different from what could reasonably be expected on the basis of the project information provided in the RFP.

- 3.1.6. **Success fee** contracts are frequently used for the delivery of transaction advisory services to private bidders. In that case the remuneration of the Transaction Advisor consists of a relatively low retainer fee (sometimes zero) and a success fee in commercial close or financial close is reached. When the conditions for pay-out of the success fee are met, then the Transaction Advisor earns a fee that exceeds its costs and normal profit margin. The excess compensation provides a strong incentive to achieve the objective, and compensates for the times that the conditions for pay-out are not met, in which case the remuneration is very low (below full cost and sometimes even below direct costs).
- 3.1.7. In general it is not recommended to use success fee contracts for the procurement of transaction advisory services by a Contracting Authority. On the one hand success fees offer some advantages: The Transaction Advisor is strongly incentivised to do all that is possible to bring the project to commercial and financial close, and will alert the Contracting Authority to all issues that may endanger private sector interest in the project. However, there are also serious drawbacks that are not present in private sector side transaction advisory services, and that make success fees impractical and inappropriate for public sector side transaction advisory services.
- (a) The Transaction Advisor is appointed in a much earlier phase of the project development cycle, when little is known about the feasibility of the project and the commercial terms of the PPP arrangement. In fact, it is the task of the Transaction Advisor to examine the feasibility of the project and develop a suitable PPP arrangement. Due to this early appointment the Transaction Advisor cannot reliably assess the probability that the project will reach commercial or financial close and determine an appropriate level of the success fee.
  - (b) There is a conflict of interest between the Transaction Advisor, who wants to close the project at any cost in order to earn the success fee, and the Contracting Authority whose objective is achieve value-for-money for users and taxpayers. This conflict of interest frequently leads to disputes when the Contracting Authority takes a decision that the Transaction Advisor perceives as reducing the probability of the project reaching commercial close, even if this decision is warranted to safeguard public interests and value-for-money.

## 3.2 Milestones

- 3.2.1. It is recommended to divide the bid price in several items corresponding to distinct tasks in the scope of work, and associate the completion of these tasks to payment milestones. A breakdown of the bid price in distinct tasks facilitates the adjustment of the price in case of early termination of the services (see next section), as well as the evaluation of contract variation requests.
- 3.2.2. There are two options for determining the weights of the payment milestones.
- (a) In the first option the candidate Transaction Advisor submit, in their financial bids, a single lump sum fee. The Contracting Authority fixes the weights of the payment milestones.
  - (b) In the second option the candidate Transaction Advisor submit separate prices for each item of the scope of work, corresponding to a payment milestone. The weights of the payment milestones are determined by the bids.

- 3.2.3. Both options have advantages and disadvantages.
- (a) In the first option the Contracting Authority may choose weights that are very different from the actual costs of providing the services corresponding to each of the milestones. Especially in the case that the early payments are too small to cover costs (i.e. the payments are backloaded) this may create problems with the mobilisation of resources and the performance of the services in the beginning of the assignment. When the first option is adopted it is therefore important that the Contracting Authority bases the weights of the milestones on a realistic, itemized cost estimate.
  - (b) The second option creates a risk of opportunistic, frontloaded bids. The Transaction Advisor prefers to be paid earlier and may therefore inflate the price of earlier milestones and compensate this by reducing the price of later milestones. The result is that the Contracting Authority overpays in case of an early termination of services, and that the performance of services may be impaired towards the end of the assignment.

### 3.3 Payment upon early termination of the services

- 3.3.1. The general rule is that upon the termination of the Transaction Advisory services contract, for any reason, the Transaction Advisor is remunerated for all services satisfactorily performed prior to the effective date of termination.

***Typical clause in contract for consultant's services of international development bank (World Bank, African Development Bank, etc.)***

Upon termination of this Contract, the Contracting Authority shall pay the Consultant the following:

- (a) remuneration for Services satisfactorily performed prior to the effective date of termination, other expenses, provisional sums, and contingency for expenditures actually incurred prior to the effective date of termination; and
- (b) in the case of termination pursuant to *[clauses on early termination due Force Majeure and in the sole discretion of the Contracting Authority]*, reimbursement of any reasonable cost incidental to the prompt and orderly termination of this Contract, including the cost of the return travel of the Experts.

- 3.3.2. If the Transaction Advisory services contract is terminated immediately after the payment of a milestone and if the weights of the payment milestones have been fixed in line with actual costs, then the Transaction Advisor is automatically appropriately compensated. It is therefore important that:
- (a) every approval moment of the PPP project (for instance the approval of the Feasibility Study by the PPP Committee) is as much as possible coinciding with a payment milestone;
  - (b) the weights of the payment milestones are appropriately determined (i.e. in line with the actual breakdown of the costs of the Transaction Advisor).